



Senate

General Assembly

File No. 265

January Session, 2013

Substitute Senate Bill No. 954

Senate, April 2, 2013

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PAYMENTS MADE UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) (1) Each automobile liability insurance policy shall provide
4 insurance, herein called uninsured and underinsured motorist
5 coverage, in accordance with the regulations adopted pursuant to
6 section 38a-334, with limits for bodily injury or death not less than
7 those specified in subsection (a) of section 14-112, for the protection of
8 persons insured thereunder who are legally entitled to recover
9 damages from owners or operators of uninsured motor vehicles and
10 underinsured motor vehicles and insured motor vehicles, the insurer
11 of which becomes insolvent prior to payment of such damages,
12 because of bodily injury, including death resulting therefrom. Each
13 insurer licensed to write automobile liability insurance in this state
14 shall provide uninsured and underinsured motorists coverage with

15 limits requested by any named insured upon payment of the
16 appropriate premium, provided each such insurer shall offer such
17 coverage with limits that are twice the limits of the bodily injury
18 coverage of the policy issued to the named insured. The insured's
19 selection of uninsured and underinsured motorist coverage shall apply
20 to all subsequent renewals of coverage and to all policies or
21 endorsements which extend, change, supersede or replace an existing
22 policy issued to the named insured, unless changed in writing by any
23 named insured. No insurer shall be required to provide uninsured and
24 underinsured motorist coverage to (A) a named insured or relatives
25 residing in his household when occupying, or struck as a pedestrian
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is
27 owned by the named insured, or (B) any insured occupying an
28 uninsured or underinsured motor vehicle or motorcycle that is owned
29 by such insured.

30 (2) Notwithstanding any provision of this section, each automobile
31 liability insurance policy issued or renewed on and after January 1,
32 1994, shall provide uninsured and underinsured motorist coverage
33 with limits for bodily injury and death equal to those purchased to
34 protect against loss resulting from the liability imposed by law unless
35 any named insured requests in writing a lesser amount, but not less
36 than the limits specified in subsection (a) of section 14-112. Such
37 written request shall apply to all subsequent renewals of coverage and
38 to all policies or endorsements that extend, change, supersede or
39 replace an existing policy issued to the named insured, unless changed
40 in writing by any named insured. No such written request for a lesser
41 amount shall be effective unless any named insured has signed an
42 informed consent form that shall contain: (A) An explanation of
43 uninsured and underinsured motorist insurance approved by the
44 commissioner; (B) a list of uninsured and underinsured motorist
45 coverage options available from the insurer; and (C) the premium cost
46 for each of the coverage options available from the insurer. Such
47 informed consent form shall contain a heading in twelve-point type
48 and shall state: "WHEN YOU SIGN THIS FORM, YOU ARE
49 CHOOSING A REDUCED PREMIUM, BUT YOU ARE ALSO

50 CHOOSING NOT TO PURCHASE CERTAIN VALUABLE
51 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU
52 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT
53 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE
54 AGENT OR ANOTHER QUALIFIED ADVISER."

55 (b) An insurance company shall be obligated to make payment to its
56 insured up to the limits of the policy's uninsured and underinsured
57 motorist coverage after the limits of liability under all bodily injury
58 liability bonds or insurance policies applicable at the time of the
59 accident have been exhausted by payment of judgments or settlements,
60 but in no event shall the total amount of recovery from all policies,
61 including any amount recovered under the insured's uninsured and
62 underinsured motorist coverage, exceed the limits of the insured's
63 uninsured and underinsured motorist coverage. In no event shall there
64 be any reduction of uninsured or underinsured motorist coverage
65 limits or benefits payable for amounts received by the insured for
66 Social Security disability benefits paid or payable pursuant to the
67 Social Security Act, 42 USC Section 301, et seq. The limitation on the
68 total amount of recovery from all policies shall not apply to
69 underinsured motorist conversion coverage purchased pursuant to
70 section 38a-336a.

71 (c) If an insurance company reduces uninsured and underinsured
72 motorist coverage limits or benefits payable for amounts paid by such
73 insurance company to any other claimant other than the insured or for
74 amounts paid by or on behalf of any tortfeasor for property damage,
75 each automobile liability insurance policy delivered, issued for
76 delivery, renewed, amended or endorsed by such company on or after
77 October 1, 2013, shall include a prominent disclosure on the front page
78 of such policy in not less than twelve-point type that includes (1) a
79 statement that such insurance company reduces uninsured and
80 underinsured motorist coverage limits or benefits and that such
81 reduction may be substantial, and (2) the types of payments for which
82 such insurance company may reduce such coverage limits or benefits.

83 [(c)] (d) Each automobile liability insurance policy issued on or after
84 October 1, 1971, which contains a provision for binding arbitration
85 shall include a provision for final determination of insurance coverage
86 in such arbitration proceeding. With respect to any claim submitted to
87 arbitration on or after October 1, 1983, the arbitration proceeding shall
88 be conducted by a single arbitrator if the amount in demand is forty
89 thousand dollars or less or by a panel of three arbitrators if the amount
90 in demand is more than forty thousand dollars.

91 [(d)] (e) Regardless of the number of policies issued, vehicles or
92 premiums shown on a policy, premiums paid, persons covered,
93 vehicles involved in an accident, or claims made, in no event shall the
94 limit of liability for uninsured and underinsured motorist coverage
95 applicable to two or more motor vehicles covered under the same or
96 separate policies be added together to determine the limit of liability
97 for such coverage available to an injured person or persons for any one
98 accident. If a person insured for uninsured and underinsured motorist
99 coverage is an occupant of a nonowned vehicle covered by a policy
100 also providing uninsured and underinsured motorist coverage, the
101 coverage of the occupied vehicle shall be primary and any coverage for
102 which such person is a named insured shall be secondary. All other
103 applicable policies shall be excess. The total amount of uninsured and
104 underinsured motorist coverage recoverable is limited to the highest
105 amount recoverable under the primary policy, the secondary policy or
106 any one of the excess policies. The amount paid under the excess
107 policies shall be apportioned in accordance with the proportion that
108 the limits of each excess policy bear to the total limits of the excess
109 policies. If any person insured for uninsured and underinsured
110 motorist coverage is an occupant of an owned vehicle, the uninsured
111 and underinsured motorist coverage afforded by the policy covering
112 the vehicle occupied at the time of the accident shall be the only
113 uninsured and underinsured motorist coverage available.

114 [(e)] (f) For the purposes of this section, an "underinsured motor
115 vehicle" means a motor vehicle with respect to which the sum of the
116 limits of liability under all bodily injury liability bonds and insurance

117 policies applicable at the time of the accident is less than the applicable
118 limits of liability under the uninsured motorist portion of the policy
119 against which claim is made under subsection (b) of this section.

120 [(f)] (g) Notwithstanding subsection (a) of section 31-284, an
121 employee of a named insured injured while occupying a covered
122 motor vehicle in the course of employment shall be covered by such
123 insured's otherwise applicable uninsured and underinsured motorist
124 coverage.

125 [(g)] (h) (1) No insurance company doing business in this state may
126 limit the time within which any suit may be brought against it or any
127 demand for arbitration on a claim may be made on the uninsured or
128 underinsured motorist provisions of an automobile liability insurance
129 policy to a period of less than three years from the date of accident,
130 provided, in the case of an underinsured motorist claim the insured
131 may toll any applicable limitation period (A) by notifying such insurer
132 prior to the expiration of the applicable limitation period, in writing, of
133 any claim which the insured may have for underinsured motorist
134 benefits and (B) by commencing suit or demanding arbitration under
135 the terms of the policy not more than one hundred eighty days from
136 the date of exhaustion of the limits of liability under all automobile
137 bodily injury liability bonds or automobile insurance policies
138 applicable at the time of the accident by settlements or final judgments
139 after any appeals.

140 (2) Notwithstanding the provisions of subdivision (1) of this
141 subsection, in the case of an uninsured motorist claim, if the motor
142 vehicle of a tortfeasor is an uninsured motor vehicle because the
143 automobile liability insurance company of such tortfeasor becomes
144 insolvent or denies coverage, no insurance company doing business in
145 this state may limit the time within which any suit may be brought
146 against it or any demand for arbitration on a claim may be made on
147 the uninsured motorist provisions of an automobile liability insurance
148 policy to a period of less than one year from the date of receipt by the
149 insured of written notice of such insolvency of, or denial of coverage

150 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	38a-336
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INS *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill modifies policy disclosures related to uninsured and underinsured motorist coverage. As it concerns private insurance transactions, there is no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 954*****AN ACT CONCERNING PAYMENTS MADE UNDER UNINSURED AND UNDERINSURED MOTORIST COVERAGE.*****SUMMARY:**

This bill requires auto insurers to include a prominent disclosure on the front page of an auto insurance policy if they reduce uninsured and underinsured motorist coverage limits or benefits payable by amounts paid (1) to claimants other than the insured person or (2) by or on behalf of a tortfeasor for property damage. It applies to policies delivered, issued, renewed, amended, or endorsed on or after October 1, 2013.

The disclosure must be in at least 12-point type and include (1) a statement that the insurer reduces uninsured and underinsured limits or benefits and the reduction may be substantial and (2) the types of payments for which the insurer reduces limits or benefits.

EFFECTIVE DATE: October 1, 2013

BACKGROUND***Related Bill***

SB 236, reported favorably by the Judiciary Committee, prohibits auto insurers from denying uninsured motorist coverage to a named insured or related household member solely because he or she is struck as a pedestrian by, and during the theft of, a covered vehicle the insured owns.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/14/2013)